80865-1

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IN THE SUPREME COURT OF WASHINGTON

STATE OF WASHINGTON

Respondent

v.

GLEN SEBASTIAN BURNS

Petitioner

SUPPLEMENTAL BRIEF OF PETITIONER GLEN SEBASTIAN BURNS

GLEN SEBASTIAN BURNS
PRO SE
D.O.C. NO. 876360

WASHINGTON STATE PENITENTIARY
1313 N 13TH Ave
Walla Walla, Washington 99362

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ASSIGNMENT OF ERROR

I ask that the Court of Appeals decision denying my request to represent myself on appeal be reversed.

STATEMENT OF THE CASE

I'm appealing three false convictions for aggravated murder in the first degree. The Washington Appellate Project was appointed to represent me on appeal, but on July 17, 2007, I informed counsel that I wished to proceed per say. This was four days after counsel filed an initial opening brief on July 13, 2007, but two weeks before counsel filed an Amended Opening brief on July 30, 2007. On August 20, 2007 my motion was filed requesting to proceed pro se. ("Appellate Burns Motion to Proceed to Pro Se and Allow Counsel to Withdraw".)

Court of Appeals Commissioner James Verellen granted my motion to proceed pro se on August 28, 2007. ("Commissioner's Notation Ruling"). Then, after receiving a response brief from the State ("States Response to Burns' Motion to Proceed Pro se and Allow Counsel to Withdraw" ["States Response"] dated September 6, 2007) which was treated as a motion for reconsideration pursuant to RAP 17.4 (C) (2), the Commissioner withdrew his ruling and referred the matter to a panel of 3 judges for review without oral argument, which panel denied my motion, I now ask that this Court of Appeal decision be reversed and that my request to proceed to pro se be granted. Pursuant to RAP 13.7 (d) I now submit this brief to supplement

arguments made to the court of appeal in "Appellant Burns' Motion to Proceed Pro Se and Allow Counsel to Withdraw," and "Appellant Burns' Response Concerning Motion to Proceed Pro Se," and to the Supreme Court of Washington in "Burns' Motion for Discretionary Review."

ARGUMENT

1. THE RIGHT TO SELF-REPRESENTATION ON APPEAL IS PROTECTED BY THE WASHINGTON CONSTITUTION

In State v. MacDonald 143 Wn. 2d 506 22 P 3d 791 at 511 n3) (2001) (The State's reference to MacDonald victa {"State's Response at 18; State's answer to motion for discretionary review is irrelevant since the Court of Appeals allowed MacDonald to proceed pro se but for his refusal of the Farretta inquiries, and since he did not subsequently request it again in the Court of Appeals or evidently seek review of that decision in the Supreme Court, and rather than only sought self-representation in the Supreme Court, as noted, declined to address this now mute issue.} this court observed that "... no Washington court has examined the right to self-representation on appeal ", and indeed, the Supreme Court of Washington did not do so in that case noting that this court's affirmation of the Court of Appeals' reversal of MacDonald's judgment obviated need "fully [to] address and analyze the constitutional right to proceed pro se on appeal.

...Tape misses...

Moreover, his dissent highlights that a guardian choosing, by authority of the majority opinion, to stay the appeal would be doing so in part to preserve the appellant's continuing right to proceed pro se. As the majority had stated, "... the appellant... if mentally competent to participate in the appeal not satisfied with the way his counsel was proceeding...is permitted to argue the case pro se ... ". Jones 57 Wn. at 2d at 703. It is respectfully submitted that this presents compelling indirect authority recognizing the constitutional right to self-representation on appeal.

In his separate concurrence in Martinez v. California , 528 U.S. 152, 165, 120 Sct. 684, 145 L Ed. 2d 597 (2000), Justice Sclia summarized simply that the question of the right to self-representation on appeal "...is readily answered that there is no constitutional right to an appeal". It is respectfully submitted that in Washington the question is readily answered by the fact there is a state constitutional right to an appeal. Justice Sclia elaborated that, constitutionally, federal denial of self-representation abergated no right since appeal could be eliminated altogether. This is simply not the case in Washington. And further, Justice Sclia's identification of the right to appeal as the determinative element is argued in various ways throughout the majority's decision in Martinez, none of these arguments ever suggests that self-representation would not be a constitutional right on appeal if appeal itself were a constitutional right: the entire Martinez analysis is consequent to the absence of this right. Thus the

most pertinent difference between the Washington State constitution art. 1 §22 that, "In criminal prosecutions the accused shall have ... the right to appeal in all cases...". The court must decide what the meaning of this difference is. The following two paragraphs will address textual analysis of state's Const. art. 1 SS 22 and the parallel clause in the Sixth Amendment to the United States Constitution, pursuant to the first and second sectors recommended in State v. Gunwall and 106, Wn. 2d 54, 61, 720 P. 2d 808 (1986), and the remaining part of this section will address historical analysis and the regard for individual autonomy in Farreta v. Califorina 422 U.S. 806, 833-34 95 S. Ct. 2525 45 L Ed. 2d 562 (1975) State v. Martinez.

The State argues that the meaning of this state constitutional clause is not that the appellant has the right to represent himself on appeal; because the state claims, there is no "link" between the right to appeal" and the right to "defend in person". State's Response at 7,9. It will be explained in the next paragraph why this claim is incorrect; but it is worth noting precisely what interpretation would result from the State's logic. The State's claim is that because Washington's Constitution states that the accused has the right to "defend in person, but does not state that he has the right to appeal in person" the constitution therefore provides no constitutional right to self-representation on appeal. By the same logic, we would ineluctably be forced to conclude that since Washington's constitution states that the accused has the right "to defend...by counsel," but does not state that one has the "right

to appeal by counsel" he therefore has no constitutional right to counsel on appeal: the State's logic would force us to conclude that the Washington constitution provides neither the right to counsel on appeal nor the right to self-representation on appeal, and that, since there are obviously no other means to an appeal, one therefore has no constitutional right to an appeal. This logic is plainly untenable.

Assuming the court agrees that it can't simply hold that the Washington constitution provides no right to an appeal, the task for this court, then, is to decide what a correct textual analysis of the State constitutional right to an appeal would be. Faretta v California, 422 U.S. 806, 819, 95 S.Ct. 2525, 45 L. Ed. 2d 562 (1975) provides an example of such a textual analysis. The Faretta court found that all the rights in each phrase in the Sixth Amendment are linked directly to the accused. Following Faretta's example, the Washington Constitution right to an appeal is linked directly to the accused. Since the state's logic is impossible, the comparison of the parallel clauses shows that both constitutions link all the rights directly to the accused, and that the only difference is that the Federal constitution includes no right to an appeal, and the Washington Constitution does, therefore linking the state constitutional right to an appeal directly to the accused.

Moreover, since Washington Const. art. 1 §22 defines the constitution of criminal prosecution "the distinguishing inclusion of appeal"

thus broadens the constitutionally defined ambit of criminal prosecutions: the over-process of criminal prosecutions" is the single entity comprising trial and appeal. The accused within this process has all the rights listed in section 22, just as acknowledged by the constitutional right to counsel on appeal. State v. Jones, 57 Wn. 2d at 705-06 dissenting on a different) this acknowledgement by Washington Courts evinces this inescapable synagism: that the accused in criminal prosecutions has the right to counsel; that criminal prosecutions by constitutional definition, includes appeal by right; that the accused on appeal therefore has a constitutional right to counsel. This .... demonstrates that constitutional right to appeal in fact this same reasoning in Martinez identified determinative absence of appeal from the Sixth Amendment treatment of "Criminal Prosecutions" and in this respect, it is Martinez that presents example of the current textual analysis, according to which inclusion or omission of appeal in the "Criminal-Prosecutions" is the determinative factor. And importantly, Martinez made it clear that if there were a right to an appeal in the Sixth Amendment, there would be the right to self-representation on appeal even though the federal right to self-representation is not explicit. It follows then that, by the Martinez example that textual construction of a right to appeal would guarantee the right to self-representation on appeal: and guarantee it a fortiriori where the right to self-representation is explicit. Plus the State's claim that the right to appeal and the right to self-representation are not textually linked is wrong. Unlike

the federal constitution the Washington constitutional places the appeal inside the defining compass of the defining criminal prosecution's process, and grants the accused the right to counsel and the right to self-representation throughout that process. (Additionally, in contrast to the states argument that separate phrases containing the right to self-representation and the right to appeal are not grammatically linked despite (despite being in the same list "in the same clause, the Washington Supreme Court found in State v. Foster Wn 58, 67, 146 P. 169, (1915), that the reach of the organic constitutional instrument extended to all its fingers, such that the constitutional guarantee of "... every incident and every privilege attending the right" to appeal included in rights protected in different sections of art. 1; viz. in that case, pale rights protected in §20).

In terms of historical analysis both in a sense of Gunwall Supra and Faretta 422 U.S. at 821-32 and Martinez 52 U.S. at 163, the introduction of an unprecedented constitutional right gives transformative authority to the independent constitutional principal when such a right implements in the face of history, a philosophical advancement. As James Loebson observes in his article "the Constitutional Right to an Appeal; Guarding Against Unacceptable Risks of Erroneous Prosecution" 8 U. Puget Sound. L. Rev. Ed. 375, 379-80 (1985),

> The Washington Supreme Court has suggested that an examination of the "[T]he central principals of the common law "in an appropriate aid to state constitutional

> interpretation. [State v. Ringer, 100 Wash. 2d 686, 691, 674 P. 2d 1240, 1243 (1983)]. By interpreting our State constitutional provision in a manner "consistent" with their common law beginnings," the courts can best achieve the intentions of the framer [Id. At 699, 674 P. 2d at 1274.] "But with respect to the right to appeal, there are no "common law beginnings" and no applicable "central principals of common law." The provision in article I section 22 granting a constitutional right to appeal in all criminal cases marks a sharp break with the common-law past. Consequently, proper judicial interpretation of the scope of the constitutional right to appeal must reflect the framers intention to transform a discretionary privilege into an absolute right.... Recognition of the historical background of the right to appeal, therefore leads to the conclusion that the framers would have been vigorously opposed to any attempt, either legislative or judicial, to restrict a convicted defendant's right to appeal....

Thus the "negative historical evidence that for the Martinez court, regarding constitutional unprotected appeal, lacked the probitiveness it had for Faretta regarding trial, (Martinez 528 at U.S. at 163 has restored significance in States wherein the constitutional right. Washington State itself, not having reviewed the issue, (MacDonald Supra) had acknowledged State v. Jones, 57 Wn. 2d at 703, the history of jailed appellants without counsel who had to submit their cases "on the briefs", and also has not denied to appellants any of the rights protected in art. 1 §22; the denial of appellant proceedings is not relevant since this is consistent with lack of constitutional entitlement at trial to presence at proceedings unnecessary. See e.g. Snyder v. Massachusetts, 291 U.S. 97.

Further, the State's textual analysis is unsupported by any holding from any other state with a constitutional right to appeal that this right wouldn't be abergated by denial of right to self-representation, and that the right to self-representation does not inhere in a constitutional right to an appeal. (See Appellant Burns' Reply Concerning Motion to Proceed Pro Se" at 9)

Last, the State's use of the Martinez courts' analysis that interests of individual autonomy are less compelling on appeal has been implied. (States Response at 8-9, 5-6). The entire Martinez analysis in this regard is predicated upon its introductory "inclusion that the Sixth Amendment" does not apply to appellate proceedings...". Martinez 528 U. S. at 162-3. The Faretta court has held that with an action on one's criminal case it's constitutionally entitled, this entitlement is to the person and the defendant "...must be free personally to decide whether in his particular case counsel is to his advantage" Faretta 422 U.S. at 834 (emphasis added). Thereafter, the Martinez court agreed that Faretta's respect for individual autonomy would be "of course" applicable to an appellant seeking self-representation, but hel that because appeal is not a federal constitutional right these otherwise undiminished autonomy interests are given less weight – the balance, at trial, between state interest and individual interest is altered on appeal, by the instant constitutional disentitlement of the appellant to his appeal. Martinez, Supra. Under the Washington Constitution, this disentitlement does not

occur; this alteration of this balance does not occur, the appellant is as constitutionally entitled as ever to make his case. Indeed, it was undiminished interest autonomy on appeal that was the basis of Justice Mallory's objection of the notion that a guardian ad litem could waive the appellant's constitutional right to counsel on appeal, because "...constitutional rights are pecurioulely personal" Jones, 57 Wn. 2d at 705-706. The states use of the Martinez federal analysis to claim the contrary is precluded by the state constitutional right to appeal.

2. THE MOTION WAS TIMELY; AND THE CIRCUMSTANCES WOULD STILL JUSTIFY IT BEING GRANTED EVEN HAD IT BEEN LATE

The State has argued that the motion was not timely. The notion of timeliness is addressed in State v. Fritz 21 Wn. App. 362 Fritz delineated requests to proceed pro se into three degrees of timeliness, and presented a legal analysis for each of these. Each of these degrees is distinguished in terms of the request's timing in relation to the hearing in question. The first degree of timeliness is if the request is made "...well before the... hearing and unaccompanied by a motion for a continuance... ". The second is, "... as the trial or hearing, is about to commence, or shortly before..."; and the third is, ...during the ... hearing... ". The court may wish to decide into which of these three categories my pro se requests falls; but, as shall be demonstrated below, my request satisfies the Fritz criteria

irrespective of the degree of timeliness wherein the court finds the assertion to have been made. The question of which degree of timeliness into which the assertion falls will be addressed in the next two paragraphs.

The timeliness of the request must be "measured from the date of the initial request". State v. Breedlove 79 Wn. App. 101 at 109 (1995). My motion was made on August 20, 2007; but it should be noted that I asserted my right to counsel on July 17, 2007. (Breedlove's exact language, "initial assertion", perhaps supports the significance of my initial assertion to counsel; although Breedlove's instant example is the initial filing of the motion in court in contrast to the date the motion was heard.) This initial assertion to counsel was two weeks before counsel filed an amended opening brief, and a month before counsel for the State had even submitted a notice of appearance. Such timing is arguably per se of the earliest degree of timeliness the motion was ultimately filed before any response brief, or reply brief, or the setting of any date for consideration. It is respectfully submitted that this motion was made, pragmatically, well before the hearing, amid the early stages of pre-hearing briefing, before the state had begun to respond.

There was no hearing scheduled and thus no showing of a significant, identifiable delay. It is respectfully submitted that because the motion was made well before the hearing and thus Fritz timeliness, my right to self-representation, exists as a matter of law. Fritz, Supra. The state, however,

asks the court to hold that I did not make my motion well before the hearing, during pre-hearing briefing. The State asks the court instead to imagine that my motion was made in the middle of a trial ("State's Response" at 16), implicitly as though there are jurors who will be kept waiting, witnesses who will have to be re-scheduled and professionally inconvenienced, court personnel who will have to be reassigned, exhibits that will require re-administration... it is respectfully submitted that a mid-trial request would potentially present numerous, real identifiable delay issues that would have to be weighed in the request's specific circumstances, and that these hypothetical delay issues of a hypothetical mid-trial request simply do not exist in this case. The reality is that my motion was plainly made amply before an unscheduled hearing, and there is simply no basis to displace that reality by conceiving of it as a request made in the middle of a trial.

The unreasonableness of the State's analogy is further demonstrated by the prescription Fritz presents for requests to proceed pro se that are made late; Fritz is very precise in its guidance of the judge's limited discretion in such cases. (see citation below). As the court remarked in Breedlove in its discussion of Fritz and other cases.

> ...Washington courts have recognized that the timeliness requirement should not operate as a bar to a defendant's right to proceed pro se:
>
> > [The] imposition of a 'reasonable time' requirement should not be and, indeed, must not be used as a means of limiting the defendant's

> constitutional right to self-representation. We intend only that a defendant should not be allowed to misuse the Faretta mandate as a means to unjustifiably delay a scheduled trial or obstruct the orderly administration of justice.... When the lateness of the request and even the necessity of a continuance can be reasonably justified the request should be granted. n8
> n8 Fritz, 21 Wn. App. at 362 (quoting Windham, 560 P. 2d at 1191 n. 5).

Because there is no evidence that Breedlove's motion was designed to delay his trial or that granting it would have impaired the orderly administration of justice we hold that the trial court abused its discretion in denying Breedlove's request. Breedlove at 109-110 (emphasis added except for "constitutional" and cited cases; ellipsis in original).

Thus, even in the hypothetical case of a mid-trial request there would still be an abuse of discretion in denying the request if the pragmatic reality of the actual, case-specific circumstances did not compel it: there would still be no per se discretion to deny the right on a hypothetical principle of hypothetical delay if the real circumstances were different as such, to claim that the court should imagine that a pre-hearing request is actually a mid-trial request would only beg the questions of what real, identifiable trial elements would be delayed; and since the present case is actually pre-hearing, the inevitable conclusion must be that no such hypothetical trial elements are present. We need look no further for proof of this than the court clerk's initial ruling: had I been given, as he first ruled, a month to re-file an

opening brief, this short continuance would have been inconsequential, especially when apposed to the fact that two weeks after I first asserted the right to counsel, counsel filed another amended brief anyway! And all of which occurring weeks before counsel for the State had even given notice of appearance! (And the State's proffered concern about further continuance requests from me should be disregarded, since the pro se request was not contingent upon any motion for a continuance.)

Furthermore, in such a hypothetical case, Fritz holds that the requests should be granted if the lateness of the motion can be reasonably justified, such reasonable justification exists in this case. The fact that I informed counsel on July 17, 2007, that I intended to proceed pro se, and that the motion was then not filed until August 20, a month later (the motion also including an affidavit signed by me on August 7, 2007), in itself contributes to reasonable justification of lateness, in that my initial request, in truth, was two weeks before counsel filed the amended opening brief. Also, though I had previously been given some rough drafts from counsel, these drafts did not even contain all of the issues that counsel later submitted of some of which I had been unaware; I did not receive from counsel a complete draft until I received counsel's original opening brief on the evening of July 16, 2007 and, the very next day, I informed counsel that I wanted to proceed pro se. Moreover, counsel had only just mailed to me on July 11 and 12, 2007, thousands of pages, comprising more than 60 trial days, of crucial portions

of the report of proceedings, July 13, 2007 being the day counsel mailed to me my first copy of the complete opening brief. And as of July 17 I still did not have a copy of the rather enormous Superior court file or trial or pre-trial exhibits; and, owing to circumstances that will be explained below, after a seven month separation from my own legal notes, adding in two recent prison transfers, I had only recovered them on July 2, 2007, scarcely two weeks before I received counsels complete draft on July 16 and requested to proceed pro se on July 17. And after a similarly lengthy time, I had only just come to have on June 19, 2007, regular ability to attend the prison law library, which ability amounted to approximately 8 hours by July 17, 2007.

A further factor that delayed my motion was that in the many proceeding months I was encumbered with distinctive prison difficulties that were sometimes incapacitating. I had health issues that at times included significant weight loss, and December 2006 I was bound with constraints to a bed for weeks (except for brief, supervised, unshackled "limb rotations") while being fed by a tube during which time legal work was impossible. Also, in the space of two months, in December through January 2007, I was transferred from one prison to another and then to a third (the third being Washington State Penitentiary), and each time my legal materials were not shipped with me. Then, in early March 2007, I was discovered to have been grievously assaulted and kept thereafter in involuntary segregation for three and a half months, I was notified in April 2007, that I was going to be

returned to the Clallam Bay Correction Center where my legal materials were still being kept, consequently I did not request them to be shipped to the Washington State Penitentiary since it appeared that this would only cause more delay. My transfer was then postponed pending a hospital's MRI examination of me following the recently sustained facial fracture. After this examination I was again advised that I would be returned to the Clallam Bay Correction Center; but then on May 17 I was notified that I was instead going to be kept at the Washington State Penitentiary. At this point I learned the procedure to have my legal materials shipped to me, and did so on June 10, 2007; as noted above, they arrived on July 2, 2007.

In addition, in April 2007, during my recovery from the marked assault, I was found to have lost weight, and I was obliged to advocate at a prison hearing that my condition would not be improved by involuntary medication. (In April I had been transferred within the same prison from one segregated unit to another, whereupon it was four days before I mailed a letter to my family in Canada updating them of this transfer and 12 days before I ascertained the procedure for calling from a segregation unit and did so; and during this 12-day interruption in contact, my family called the prison to inquire and learning of my transfer said that they hadn't known of it because they hadn't heard from me. This account was somehow circulated and misconstrued by prison personnel, who adduced that I had fallen out of contact with my family with the hypothesis that I had an eating

disorder type "Not Otherwise Specified" which would be cured by involuntary medication.) I prevailed at the hearing; but unfortunately State policy allowed the prison to forcibly administer for 6 days a regime of "anti-depressants" and utterly debilitating "anti-psychotics". And by unfortunate co-incidence, and to surprise of mine that perhaps might not have been wholly accountable, my one and only visit in prison with appellate counsel presented itself in the very middle of this week of blurry vision and implacable drowsy fatigue.

Roughly a month and a half later, on June 19, 2007, I was released from segregation and was then able to attend the prison law library for up to two hours per week; on July 2, I received my legal materials for the first time in roughly seven months; on July 16, for the first time, I received a complete draft of counsel's opening brief, and in the same week received thousands of pages of the report of proceedings; and on July 17 I informed counsel that I wished to proceed pro se, two weeks before counsel filed its final amended opening brief, and a month before State counsel gave notice of appearance, and a week before I had even begun to receive the majority of the Superior Court file. It is respectfully submitted that even if, at the State's suggestions, the court were to conceive of my motion to proceed pro se as having been made during the middle of a hypothetical trial, all of the foregoing would present reasonable justification for the lateness of the motion, and that the hypothetical trial court judge would therefore be

obliged, per Fritz and Breedlove to grant the motion. But since in actuality my motion was made well before the hearing, it is respectfully submitted that my right to self-representation exists as a matter of law.

3. THE GRANTING OF A TIMELY MOTION OR JUSTIFIEDLY LATE MOTION TO PROCEED PRO SE IS PER SE "GOOD CAUSE" PER RAP 18.3 (1); RAP 18.3 (1) IS NOT THE INDEX OF TIMELINESS

The State argues that RAP 18.3 (1) would bar a motion to proceed pro se made after the filing of the opening brief but for a showing of "good cause". ("State's Response" at 14: State's "Answer to Motion for Discretionary Review" at 10,11) it is respectfully submitted that this is a misreading of the rule. RAP 18.3 (1) is the Court of Appeals analog to CrR 3.1 (e); (3 Orland and Tegland Wash. Pract.: RAP 18.3, "Task Force Comment 88", at P 595 (1998)); the latter limits withdrawal of counsel once a case has been set for trial, and the former once an opening brief has been filed. An otherwise timely or justifiably late hiring of new counsel or request to proceed pro se would be per se "good cause" or "good and sufficient reason" as these rules require. The purpose of these parallel rules has never been to limit otherwise timely or justifiably late requests to change in either of these ways from court appointed representation, nor to define timeliness in this respect: these rules have never been used as such. Their purpose rather is to effect the right to counsel and the precedence given to the right to counsel over the attorney's right to withdraw; and to effect

specifically the premise that the accused's right to counsel would not be meaningful if counsel could without good reason withdraw after the setting of the a case for trial or the filing of an opening appellate brief. (See 4A Orland and Tegland Wash. Pract. CrR 3.1 P 130 (1998)). Thus the rationale of CrR 3.1 (e) and RAP 18.3 (1) patently ceases to apply once the right to counsel is waived and accordingly, for example, the corresponding federal obligation on counsel not to withdraw after arraignment and thereby to uphold the accused's right to counsel (U.S. District Court Western District CrR 5 (d) 2)) has never been interpreted as a comparable – let alone identical – obligation on the accused not to waive appointed representation and thereby to uphold his own right to counsel, hence the acknowledged timeliness of request to proceed pro se made long after counsel has been committed. See e.g. Fritz v. Spalding S. 2d 782, 784 (1982) (request made before jury empanelment is timely)), demonstrating a standard of timeliness completely distinct from the date of counsel's commitment against withdrawal.

The State effectively argues that the date of counsel's commitment against withdrawal should oppose on the right to self-representation a criterion of timeliness that would overrule, for example, the standard in State v. Fritz; that the court should adopt an additional rule that a motion to proceed pro se that is otherwise timely or justifiably late and thus to be granted per Fritz; that the court should adopt an additional rule that a motion

to proceed pro se that is otherwise timely or justifiably late and thus to be granted per Fritz and Breedlove should nevertheless be compulsorily denied absence some complicity showing of a "good cause" that exceeds the mere constitutional entitlement to self-representation. Such a rule, inherently, would unnecessarily restrict the constitutional right and would accordingly be unconstitutional.

CONCLUSION

I respectfully request that my motion to proceed pro se be granted.

Respectfully submitted,

Glen Sebastian Burns by Mark Wilk (#778)

Glen Sebastian Burns, pro se

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	
Respondent,	)	NO. 80865-1
	)	
v.	)	
	)	
GLEN SEBASTIAN BURNS,	)	
	)	
Petitioner.	)	

CERTIFICATE OF SERVICE

I, MARIA ARRANZA RILEY, CERTIFY THAT ON THE 10TH DAY OF MARCH, 2008, I CAUSED A TRUE AND CORRECT COPY OF THE **SUPPLEMENTAL BRIEF OF PETITIONER BURNS** TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

[X] BRIAN MCDONALD DEBORAH DWYER KING COUNTY PROSECUTING ATTORNEY APPELLATE UNIT KING COUNTY COURTHOUSE 516 THIRD AVENUE, W-554 SEATTLE, WA 98104	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____
[X] DAVID KOCH ATTORNEY AT LAW NIELSEN, BROMAN & KOCH, PLLC 1908 E MADISON ST. SEATTLE, WA 98122	(X) ( ) ( )	U.S. MAIL HAND DELIVERY _____

SIGNED IN SEATTLE, WASHINGTON THIS 10TH DAY OF MARCH, 2008.

X_____

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